IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 7TH SEPTEMBER 2007 / 16TH BHADRA 1929

Crl.MC.No. 2755 of 2007()

CC.3784/2005 of JUDL.MAGISTRATE OF FIRST CLASS-I, ERNAKULAM

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PETITIONERS:

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1. P.M.FAIZAL, S/O.MUHAMMAD ALI,
   AGED 38 YEARS, PEEDIAKKAL HOUSE, SRM ROAD,
   ERNAKULAM.

2. FATHIMA, W/O.MUHAMMAD ALI,
   AGED 70 YEARS, PEEDIAKKAL HOUSE,
   SRM ROAD, ERNAKULAM.

BY ADV. SRI.K.I.ABDUL RASHEED

RESPONDENTS:

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1. STATE OF KERALA, REP. BY PUBLIC
   PROSECUTOR, HIGH COURT OF KERALA.

2. SALMA, D/O.ABDUL RAHIMAN,
   AGED 30 YEARS, PEEDIAKKAL HOUSE,
   SRM ROAD, ERNAKULAM.

R2 BY ADV. SRI. MANZOOR ALI K.A.
R1 BY PUBLIC PROSECUTOR SRI. KAMAPPU

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 07/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 2755 of 2007

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Dated this the 7th day of September, 2007

O R D E R

The petitioners face indictment in a prosecution for offences punishable under Section 498A r/w. 34 I.P.C. They are the husband and mother-in-law of the defacto complainant. who is arrayed as the second respondent in this petition. They have come before this Court with this petition under Section 482 Cr.P.C. with a prayer that the proceedings against them may be quashed.

2. What is the reason? The petitioners and the second respondent submit that the matrimonial disputes between them and all outstanding disputes have been settled amicably by the parties. They have resumed harmonious cohabitation now. In these circumstances continuation of the prosecution is an unnecessary irritant in the relationship between the spouses. They have come before this Court with a joint request that the prosecution pending against the petitioners may be quashed by invoking the powers under Section 482 Cr.P.C. The spouses have filed a joint affidavit before this Court to apprise this Court of the fact that they have settled their

disputes. I am satisfied from the averments in the Crl.M.C., from the averments in the joint affidavit filed by the spouses and from the submissions made by the counsel for the rival contestants that the disputes between the parties have been settled amicably. If legally permissible, I am satisfied that the composition can be accepted and the proceedings can be brought to premature termination.

3. The offence under Section 498A I.P.C. is not legally compoundable and the composition cannot be accepted under Section 320 Cr.P.C. But the learned counsel for the petitioners relies on the decision in **B.S. Joshi** v. **State of Haryana** (AIR 2003 SC 1386). The said decision is authority for the proposition that at times the interests of justice may transcend the interests of mere law and in such circumstances the provisions of Section 320 Cr.P.C. cannot be reckoned as a fetter on the sweeping powers of the Court under Section 482 Cr.P.C. to act in aid of justice. I am satisfied that this is an eminently fit case where the powers under Section 482 Cr.P.C. with the help of the dictum in **B.S. Joshi** can be invoked and the proceedings against the petitioners brought to premature termination.

4. This Crl.M.C. is hence allowed. C.C. No. 3784 of 2005, pending before the Judicial First Class Magistrate-I, Ernakulam against the petitioners is hereby quashed.

(R. BASANT)
Judge

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